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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
(HON. JEFFREY T. MILLER)**

UNITED STATES OF AMERICA,) Case No. 08-CR-02386-JM
Plaintiff,) **MOTION TO DECLARE CASE**
vs.) **COMPLEX**
MICHAEL KRAPCHAN,) **18 U.S.C. § 3161(h)(8)(B)(ii)**
Defendant.)

SYNOPSIS

Michael Krapchan is charged with one count of a violation of 21 U.S.C., Sections 841(a)(1) and 846. He is specifically charged with being involved with a conspiracy to distribute 5 kilograms and more of cocaine.

We have received 45 CDs of consensually recorded conversations. This investigation started approximately 18 to 24 months ago, and the informant recorded a number of conversations. Most of these conversations are in Russian.

My client, who is in custody at the MCC, has been given four CDs and has been allowed to listen to them at the library at the MCC. Unfortunately, he is only given four hours a week to listen to the CDs. We are attempting to make arrangements whereby

he will have more time. But we estimate it will take at least six months to review these conversations.

It is essential that these conversations be reviewed. Mr. Krapchan is going to put forth the defense of entrapment and duress. Within the last 18 to 24 months, he has been harassed, threatened, and cajoled by the informant in this case. We believe the informant is a former KGB agent from Kazakhstan. We believe he has a reputation for engaging in violent activities in his homeland. There may be certain treaties that will allow us to get information from Kazakhstan and that may be the subject of further motions.

For this reason, we believe that, based on the Points and Authorities below, this case should be declared complex.

POINTS AND AUTHORITIES

The Speedy Trial Act allows for a finding of complexity.

18 U.S.C. § 3161(h)(8)(B)(ii) states:

“(ii) whether the case is so unusual or so complex, due to the number of defendants, the nature of the prosecution, or the existence of novel questions of fact or law, that it is unreasonable to expect adequate preparation for pretrial proceedings or for the trial itself within the time limits established by this section.”

Our case fits under this section. It will take at least six months for our client to listen to the 45 CDs of recorded conversations. The majority of the conversations are in Russian, so counsel cannot assist in the listening process.

Further, it is contemplated we will need to interview witnesses in Canada in preparing our defense to the charge.

This investigation started between 18 and 24 months prior to Mr. Krapchan's arrest. We believe the government utilized a paid informant who formerly worked for the KGB in Khazistan. We may need to obtain records from Khazistan concerning his prior activities and reputation for violent acts.

1 Dated: August 12, 2008

Respectfully submitted,

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SAN DIEGO

I am employed in the County of San Diego, State of California. I am a citizen of the United States and am over the age of 18 and not a party to the within action. My business address is 105 W. "F" St., 4th Fl., San Diego, California 92101. I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

On August 13, 2008, I served the foregoing documents described as "**MOTION TO DECLARE CASE COMPLEX PURSUANT TO 18 U.S.C § 3161 (h)(8)(B)(ii)**" in this action by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which electronically notifies the following:

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Michael Pancer
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U S Attorney CR
Efile.dkt.gc2@usdoj.gov

Thomas J Warwick , JR
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I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on August 13, 2008, at San Diego, California.

Arleen Castro
Arleen Castro